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PTO/SB/64 (09-06)

Approved for use through 03/31/2007. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

JDK 2000-002

First named inventor: **Joshua D. Kraft**

Application No.: **09/785,757**

Art Unit: **3628**

Filed: **02/20/2001**

Examiner: **NGA B. NGUYEN**

Title: **Portable Audio System Housing a Reloaded
Purchaser Selected Library of MP3 Compressed
Music Titles Stored on a Hard Disc.**

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ **750** (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27. **check**

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of **REQUEST FOR CONTINUED EXAMINATION (RCE)** (identify type of reply):

- ☐ has been filed previously on _____
☒ is enclosed herewith.

12/11/2006 WASFAW1 00000051 09785757

B. The issue fee and publication fee (if applicable) of \$ **01 FC:2453**

750.00 OP

- ☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SN 09/785,757

PTO/SB/64 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).] **SEE ATTACHED STATEMENT**

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

J. B. Kraft
Signature

11/28/06
Date

J. B. KRAFT, Attorney
Typed or printed name

19,226
Registration Number, if applicable

710 Colorado ST. #5C
Address

(572) 473-2803
(572) 567-4732
Telephone Number

AVUSTIN TX. 78701
Address

Enclosures: ☒ Fee Payment☒ Reply **RCE Form**☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

December 3, 2006
Date

J. B. Kraft
Signature
J. B. KRAFT
Typed or printed name of person signing certificate



PATENT
09/785,757

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 3628
: Examiner N. B. Nyugen
Joshua Dickinson Kraft : Customer No. 46,242
Serial No: 09/785,757 :
Filed: 02/20/2001 :
Title: PORTABLE AUDIO SYSTEM :
HOUSING A PRELOADED PURCHASER :
SELECTED LIBRARY OF MP3 :
COMPRESSED MUSIC TITLES :
STORED ON A HARD DISK DRIVE :
Date: 11/28/06 :

Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT (ITEM 4) ACCOMPANYING PETITION FOR REVIVAL FOR
PATENT APPLICATION ABANDONED UNINTENTIONALLY 37CFR1.137(b)

After the Final Rejection mailed 02/13/06, I mailed a Request for Continued Examination (RCE) on 03/20/06 which was received in the U.S. Patent Office on 03/23/06 as evidenced by the attached (Exhibit A): copies of stamped return post card and my cancelled check No. 3461, dated 3/20/06 for the \$395.

As has been now brought to my attention, the RCE form and my fee check submitted on 3/20/06 erroneously and unintentionally referred to this Application as "SN. 09/875,757" instead of the correct "SN. 09/785,757". This apparently resulted in the RCE form being misdirected to another application file in the U.S. Patent Office.

As a result, a Notice of Abandonment was mailed on October 23, 2006.

PATENT
09/785,757

Immediately upon receipt of this Notice of Abandonment, on October 27, 2006, an Inquiry Letter was submitted to Group 2638.

When no response to the Inquiry Letter was forthcoming, the staff of the undersigned telephoned Examiner H. S. Sough, and, on November 28, 2006 was advised of the mislabelling of the previously submitted RCE.

Upon learning of this error, Applicant immediately prepared the instant Petition for Revival.

Applicant recognizes that Applicant's error in the Serial Number unintentionally contributed to the Abandonment, and have submitted this petition without delay.

It is respectfully requested that the previously submitted check for \$395 for the RCE, which was cashed by the U.S. Patent Office be applied as the fee for the present RCE.

Respectfully submitted,

J. B. Kraft 11/28/06
J. B. Kraft
Attorney for Applicant
Registration No. 19,226
(512) 473-2303

PLEASE MAIL ALL CORRESPONDENCE TO:

J. B. Kraft
710 Colorado St., 5C
Austin, Texas 78701
(512) 473-2303
facsimile (512) 473-8803

A circular black ink stamp from the OIPE Patent & Trademark Office. The text "OIPE" is at the top, "PATENT & TRADEMARK OFFICE" is at the bottom, and "DEC 08 2006" is in the center. There is a small rectangular stamp on the right side of the circle.

[illegible]

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request For Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/785,757
Filing Date	02/20/2001
First Named Inventor	Josh D. KRAFT
Art Unit	3628
Examiner Name	NEA. B NGUYEN
Attorney Docket Number	JDK 2000-002

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other Amendment previously submitted on 2/13/06

b. ☐ Enclosed

i. ☐ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/Declaration(s)

iv. ☐ Other _____

2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other _____

3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, or credit any overpayments, to

a. ☐ Deposit Account No. _____

i. ☐ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other _____

b. ☐ Check in the amount of \$ _____ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	J.D. KRAFT	Registration No. (Attorney/Agent)	19,226
Signature	<i>J.D. Kraft</i>	Date	11/28/06

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	J.D. KRAFT	Date	12/03/06
Signature	<i>J.D. Kraft</i>		

This collection of information is required by 37 CFR 1.14. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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